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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,459	12/12/2003	Stephen L. Phelps	19169	2040
23556	7590	10/14/2005		
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			EXAMINER MCPARTLIN, SARAH B	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 10/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,459

Applicant(s)

PHELPS, STEPHEN L.

Examiner

Sarah B. McPartlin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/29/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed on March 29, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; **each non-patent literature publication or that portion which caused it to be listed;** and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of claim 1 recites "a washable, stain-resistant vehicle seat cover." Lines 4-6 of claim 1 describe a first and second flap "positioned near a lateral edge of a junction of a backrest and a seat cushion." It is unclear if applicant is positively claiming the backrest and the seat cushion. Clarification is required to determine the intended scope of the claim.

Claims 3, 24 and 25 state that the nonwoven fabric has a stain resistance from about 4 to about 5. What are the numbers 4 and 5 being measured in? For example,

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the from about 4 to 5 could refer to years of stain resistance, number of spills the material is resistant to, minutes of stain resistance. Clarification is required.

Claims 4, 8, 24 and 30 state that the nonwoven fabric is colorfast to light from about 4.5 to 5. Again, what are the numbers 4.5 to 5 measuring? Clarification is requested.

Claims 5 and 27 refers to a pilling resistance from about 3 to 5. Again, clarification with respect to what these numerical values are referring to is required.

Claim 20 recites that the second preselected tension is configured to be greater than, less than and equal to the first preselected tension. It is unclear how the tension can satisfy all three of these equality measures. The tension must be greater than, equal to or less than the first preselected tension. Clarification is required.

Claims 2, 6-7, 9-19, 21-23, 26-29 and 31-37 are rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-38 are rejected as best understood with the above cited indefiniteness under 35 U.S.C. 103(a) as being unpatentable over Pompa (4,718,721) in view of Dillinger (US2005/0208858). Pompa discloses a seat cover (10) comprising an upper

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portion (48) configured to cover a portion of a backrest; a lower portion (46) configured to cover a portion of a seat cushion; first and second elasticized flaps best seen along the long sides of the seat cover (10) in Figure 2, each flap positioned near a lateral edge of a junction of a backrest and a seat cushion, the flaps cooperating to define a containment area (unlabeled) best depicted in Figure 8.

With respect to claim 2, the seat cover (10) is formed from leather (40) and wool (42), which are nonwoven fabrics.

With respect to claim 10, the seat cover fabric comprises two layers, one of leather (40) and one of wool (42).

With respect to claim 11, at least one layer, i.e. the leather layer (40) includes a nonwoven material.

With respect to claim 12, the layers (40) and (42) each comprise different fabrics.

With respect to claim 14, at least one elastic member (14) is applied to each of the flaps with a preselected tension.

With respect to claim 15, the first preselected tension is sufficient to cause a substantial portion of each flap to be supported in an upright position and extend away from the vehicle seat cover (10) when the vehicle seat cover (10) is positioned on a vehicle seat (see Figure 8).

With respect to claim 16, each flap in the upright position provides a barrier, which is configured to provide at least a portion of the containment area (again refer to Figure 8).

With respect to claims 17 and 18, each flap is positioned at an angle of about 40 degrees to about 100 degrees with respect to a centerline of the vehicle car seat. The flaps run parallel to the end of the seat, which from Figure 7, can be seen running at an angle of approximately 75 degrees with respect to the center line marked by 8-8.

With respect to claim 19, each flap has a second elastic member (23) applied thereto.

With respect to claim 20, the second elastic member (23) is applied adjacent to the first elastic member (14) as depicted in Figure 6, and the second elastic member includes a second preselected tension, the second preselected tension configured to be one of greater than, less than and equal to the first preselected tension.

With respect to claim 21, the second elastic member (23) cooperates with the first elastic member (14) to cause a substantial portion of each flap to extend away from the vehicle seat cover (10) when the vehicle seat cover (10) is applied to a vehicle seen as seen in Figure 8.

With respect to claim 23, the flap, which consists of elements (14) and (23) is attached to the rest of the seat cover (10) at a seam (24) as depicted in Figure 6.

As disclosed above, Pompa discloses all claimed elements with the exception of a cover made from a fabric which is washable, stain resistant from about 4 to 5, colorfast from about 4.5 to 5, pilling resistant from about 3 to 5, exhibits less than 3 percent shrinkage after one laundering and less than 4.5 percent shrinkage after five launderings, abrasion resistant, has a basis weight from .15 osy to 8 osy and has an air permeability from about 60 to 110.

Dillinger discloses a soft, durable, nonwoven fabric that can be used for covering seats as disclosed in Figure 2. This fabric is washable (see table 1, colorfastness to washing) and exhibits stain resistance from 3.5 to 5, shows colorfastness of 5.0, "does not pill when subjected to rubbing or abrasion" ([0006], and has a basis weight of 2.7.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to substitute the fabric taught by Dillinger for the wool and leather material disclosed by Pompa. The fabric is very inexpensive and can therefore be disposed of after one use [0005].

Dillinger does not specify the air permeability of the fabric above. However it appears as if it would be a matter of design choice to select an air permeability between 60 and 110. Such a selection does not appear to solve any stated purpose and a fabric with air permeability of 50 or 120, for example, would appear to function equally as well.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Livingston (4,946,221); Rosen (5,549,354); Swezey et al. (US 2002/0113468); Sies et al. (5,309,586) ; Haller (US2004/0130193) ; Croshaw (5,265,933) ; Horn (5,709,431) ; DeMott et al. (6,770,581); Copeland (US2004/0128770) and Stuart (6,817,663).


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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SBM
October 7, 2005


Peter M. Cuomo
Supervisory Patent Examiner
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